

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARCUS ADSIDE,

Defendant.

DECISION AND ORDER
16-CR-121-A

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for the conduct or pretrial proceedings. On December 18, 2017, Magistrate Judge McCarthy filed a Report and Recommendation (Dkt. No. 71) recommending that defendant Adside's motion to suppress evidence and statements (Dkt. No. 31) on Fourth Amendment grounds be denied.

On January 2, 2018, defendant Adside filed objections to the Report and Recommendation. Dkt. No. 75. The United States filed a timely response (Dkt. No. 78), and the defendant replied (Dkt. No. 79). Oral argument was heard February 8, 2018, and the matter was deemed submitted.

Pursuant to 28 U.S.C. §636(b)(1), the Court makes a *de novo* determination of those portions of the Report and Recommendation to which objections have been made. Upon *de novo* review, and after considering the parties' arguments, the Court hereby adopts Magistrate Judge McCarthy's conclusions. The evidence shows defendant was not subject to an application of physical force before he ran from law enforcement officers, and he abandoned the evidence that was seized before he was

apprehended and seized. Accordingly, defendant Adside's motion to suppress evidence is denied. Further, because the Court finds that no illegal seizure of the defendant occurred, the defendant's motion to suppress his statements as tainted fruit of a Fourth Amendment violation is also denied.

The parties shall appear to set a date for trial on February 12, 2018, at 12:30 p.m.

IT IS SO ORDERED.

Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: February 9, 2018